

AMENDED IN SENATE MAY 29, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1044

Introduced by Assembly Member Negrete McLeod

February 20, 2003

An act to amend Sections 11106 and 12051 of the Penal Code, relating to licenses to carry firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1044, as amended, Negrete McLeod. Licenses to carry firearms.

Existing law requires the Attorney General to maintain a registry of information reported to the Department of Justice regarding firearms, and including, among other things, copies of applications for licenses to carry firearms.

This bill would recast those provisions to instead, require the registry include copies of the licenses to carry firearms. This bill would make other technical changes.

Existing law specifies requirements and provides a procedure for obtaining a license to carry a firearm. Existing law also provides for a committee convened by the Attorney General to develop a standard application form for these licenses. Existing law authorizes the Attorney General to adopt and enforce regulations relative to these licenses.

This bill would recast those provisions relating to the committee to authorize it to review and revise the license application form. The bill would also delete the provisions authorizing the Attorney General to adopt and enforce regulations relative to the licenses, and would

provide instead that the license application forms are deemed a local agency form exempt from the Administrative Procedures Act. ~~This bill would authorize licensing agencies to destroy the applications of individuals who are denied a license, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11106 of the Penal Code is amended to
2 read:

3 11106. (a) In order to assist in the investigation of crime, the
4 prosecution of civil actions by city attorneys pursuant to paragraph
5 (3) of subdivision (c), the arrest and prosecution of criminals, and
6 the recovery of lost, stolen, or found property, the Attorney
7 General shall keep and properly file a complete record of all copies
8 of fingerprints, copies of licenses to carry firearms issued pursuant
9 to Section 12050, information reported to the Department of
10 Justice pursuant to Section 12053, dealers' records of sales of
11 firearms, reports provided pursuant to Section 12072 or 12078,
12 forms provided pursuant to Section 12084, reports provided
13 pursuant to Section 12071 that are not dealers' records of sales of
14 firearms, and reports of stolen, lost, found, pledged, or pawned
15 property in any city or county of this state, and shall, upon proper
16 application therefor, furnish this information to the officers
17 referred to in Section 11105.

18 (b) (1) Notwithstanding subdivision (a), the Attorney General
19 shall not retain or compile any information from reports filed
20 pursuant to subdivision (a) of Section 12078 for firearms that are
21 not handguns, from forms submitted pursuant to Section 12084 for
22 firearms that are not handguns, or from dealers' records of sales
23 for firearms that are not handguns. All copies of the forms
24 submitted, or any information received in electronic form,
25 pursuant to Section 12084 for firearms that are not handguns, or
26 of the dealers' records of sales for firearms that are not handguns
27 shall be destroyed within five days of the clearance by the Attorney
28 General, unless the purchaser or transferor is ineligible to take
29 possession of the firearm. All copies of the reports filed, or any
30 information received in electronic form, pursuant to subdivision
31 (a) of Section 12078 for firearms that are not handguns shall be



1 destroyed within five days of the receipt by the Attorney General,
2 unless retention is necessary for use in a criminal prosecution.

3 (2) A peace officer, the Attorney General, a Department of
4 Justice employee designated by the Attorney General, or any
5 authorized local law enforcement employee shall not retain or
6 compile any information from a firearms transaction record, as
7 defined in paragraph (5) of subdivision (c) of Section 12071, for
8 firearms that are not handguns unless retention or compilation is
9 necessary for use in a criminal prosecution or in a proceeding to
10 revoke a license issued pursuant to Section 12071.

11 (3) A violation of this subdivision is a misdemeanor.

12 (c) (1) The Attorney General shall permanently keep and
13 properly file and maintain all information reported to the
14 Department of Justice pursuant to Sections 12071, 12072, 12078,
15 12082, and 12084 or any other law, as to handguns and maintain
16 a registry thereof.

17 (2) The registry shall consist of all of the following:

18 (A) The name, address, identification of, place of birth (state or
19 country), complete telephone number, occupation, sex,
20 description, and all legal names and aliases ever used by the owner
21 or person being loaned the particular handgun as listed on the
22 information provided to the department on the Dealers' Record of
23 Sale, the Law Enforcement Firearms Transfer (LEFT), as defined
24 in Section 12084, or reports made to the department pursuant to
25 Section 12078 or any other law.

26 (B) The name and address of, and other information about, any
27 person (whether a dealer or a private party) from whom the owner
28 acquired or the person being loaned the particular handgun and
29 when the firearm was acquired or loaned as listed on the
30 information provided to the department on the Dealers' Record of
31 Sale, the LEFT, or reports made to the department pursuant to
32 Section 12078 or any other law.

33 (C) Any waiting period exemption applicable to the transaction
34 which resulted in the owner of or the person being loaned the
35 particular handgun acquiring or being loaned that firearm.

36 (D) The manufacturer's name if stamped on the firearm, model
37 name or number if stamped on the firearm, and, if applicable, the
38 serial number, other number (if more than one serial number is
39 stamped on the firearm), caliber, type of firearm, if the firearm is
40 new or used, barrel length, and color of the firearm.

(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105, to a city attorney prosecuting a civil action, solely for use in prosecuting that civil action and not for any other purpose, or to the person listed in the registry as the owner or person who is listed as being loaned the particular handgun.

(4) If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney General store and keep the record electronically, as well as in the record's existing photographic, photostatic, or nonerasable optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.

SEC. 2. Section 12051 of the Penal Code is amended to read:

12051. (a) (1) The standard application form for licenses described in paragraph (3) shall require information from the applicant including, but not limited to, the name, occupation, residence and business address of the applicant, his or her age, height, weight, color of eyes and hair, and reason for desiring a license to carry the weapon. Applications for licenses shall be filed in writing, and signed by the applicant. Any license issued upon the application shall set forth the licensee's name, occupation, residence and business address, his or her age, height, weight, color of eyes and hair, the reason for desiring a license to carry the weapon, and shall, in addition, contain a description of the weapon or weapons authorized to be carried, giving the name of the manufacturer, the serial number, and the caliber. The license issued to the licensee may be laminated.

(2) Applications for amendments to licenses shall be filed in writing and signed by the applicant, and shall state what type of amendment is sought pursuant to subdivision (f) of Section 12050 and the reason for desiring the amendment.

(3) (A) Applications for amendments to licenses, applications for licenses, amendments to licenses, and licenses shall be uniform throughout the state, upon forms to be prescribed by the Attorney General. The Attorney General shall convene a committee composed of one representative of the California State Sheriffs'

1 Association, one representative of the California Police Chiefs’
2 Association, and one representative of the Department of Justice
3 to review, and as deemed appropriate, revise the standard
4 application form for licenses. The committee shall meet for this
5 purpose if two of the committee’s members deem that necessary.
6 The application shall include a section summarizing the statutory
7 provisions of state law that result in the automatic denial of a
8 license.

9 (B) The forms shall contain a provision whereby the applicant
10 attests to the truth of statements contained in the application.

11 (C) An applicant shall not be required to complete any
12 additional application or form for a license, or to provide any
13 information other than that necessary to complete the standard
14 application form described in subparagraph (A), except to clarify
15 or interpret information provided by the applicant on the standard
16 application form.

17 (D) The standard application form described in subparagraph
18 (A) is deemed to be a local form expressly exempt from the
19 requirements of the Administrative Procedures Act, Chapter 3.5
20 (commencing with Section 11340) of Part 1 of Division 3 of Title
21 2 of the Government Code.

22 (b) Any person who files an application required by
23 subdivision (a) knowing that statements contained therein are false
24 is guilty of a misdemeanor.

25 (c) Any person who knowingly makes a false statement on the
26 application regarding any of the following shall be guilty of a
27 felony:

28 (1) The denial or revocation of a license, or the denial of an
29 amendment to a license, issued pursuant to Section 12050.

30 (2) A criminal conviction.

31 (3) A finding of not guilty by reason of insanity.

32 (4) The use of a controlled substance.

33 (5) A dishonorable discharge from military service.

34 (6) A commitment to a mental institution.

35 (7) A renunciation of United States citizenship.

36 ~~(d) Applications from individuals who are denied a license~~
37 ~~may, upon final legal disposition of the denial, be destroyed by the~~
38 ~~licensing agency.~~

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